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Deputy Comptroller

19 February 1951

[redacted] 25K1A

Contract with [redacted]

1. Reference is made to your memorandum dated 23 January 1951, subject as above.

2. My recollection of the facts and circumstances surrounding the drafting of this contract are as follows:

a. An OSO representative brought [redacted] a proposed contract which obviously had been improvised from some instrument previously drawn. From this and a discussion with [redacted] I prepared the contract in question.

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b. I understood that the agent had made arrangements to represent certain commercial companies or had in the past represented companies which were acceptable to CIA. I was advised that CIA wanted to control any and all commercial activities of this agent. To this end the OSO draft contained the provision of paragraph 2 except for the last sentence thereof.

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c. I added the last sentence in paragraph 2 in an attempt to limit the Government's liability, as between the agent and the Government, for the agent's commercial contracts. However, to preserve operational flexibility, I provided that if the Government deemed it expedient to its operational requirements, it might accept responsibility and/or liability for any of the agent's commercial contracts. My original intent was to make clear to the agent that the Government was not to be liable for his commercial commitments unless it specifically accepted such responsibility.

3. Paragraph 2.a. of your memorandum does not appear to be an accurate statement of the original intent of OSO and is contrary to the provisions of paragraph 2 of the contract which I prepared.

4. Paragraph 2.b. of your memorandum more accurately states the original intent of OSO.

5. The situation pictured in paragraph 2.c. was not originally contemplated, but is an afterthought of the discussion resulting from insertion in the contract the last sentence of paragraph 2.

6. Paragraph 2.d. of your memorandum apparently suggests that there should be some recitation that there is consideration for CIA's participation in the agent's profits. It might be pointed out that if consideration is not in fact present, the recitation that there is consideration will not create a legal effect.

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7. Paragraph 3 refers to a discussion with OSO at which time there was general agreement that the contract should be rewritten. It would have been extremely helpful in redrafting the contract to have had the benefit of the objections and suggestions of the operating office. When I last talked to the OSO representative, I definitely was left with the impression that the contract was satisfactory.

8. The suggested amendment set forth in paragraph 4.a. does not appear to provide such additional clarity as would warrant re-writing the contract.

9. The suggested amendment to paragraph 10 may provide additional clarity if worded as follows: "If you should receive or draw any sums required under the terms of this contract, other than net profits contemplated in paragraph 7 above, from your cover activity, such sums will be used to offset amounts due and payable by CIA. etc."

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